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Attorneys for Defendant  
American Overseas Marine Corporation

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN MARIANA ISLANDS

KENNETH COUTURE,

Plaintiff,

vs.

AMERICAN OVERSEAS MARINE  
CORPORATION and GENERAL  
DYNAMICS CORPORATION,

Defendants.

CIVIL CASE NO. CV05-0024

**DECLARATION OF DAVID LEDGER  
IN SUPPORT OF NEW TRIAL DATE;  
CERTIFICATE OF SERVICE**

I, DAVID LEDGER, declare under penalty of perjury that the following statements are true and correct:

1. I have personal knowledge of the facts stated in this declaration except as otherwise indicated.
2. I would testify competently to these facts if called by the Court to do so.
3. I am licensed to practice law in the Commonwealth of the Northern Mariana Islands and am admitted to this Court.

4. I am the attorney for American Overseas Marine Corporation and General Dynamics ("Defendants").

5. This Declaration is filed in support of Defendants' request for a new trial date, to be taken up during a Status Conference currently on calendar for September 22, 2006 at 10:00 a.m..

6. Defendants' request for a new trial date is based on the fact that two key defense witnesses, in particular Captain David Hagner and Chief Mate Peter Kirk, both merchant marine officers serving on board the USNS JACK LUMMUS, will be absent from the jurisdiction on November 27, 2006, the current trial date. Though the JACK LUMMUS is normally on station at or near Saipan, in November and December 2006, and continuing for the first two or three months of 2007, the vessel will be in drydock at a shipyard on the United States' East Coast. The vessel is scheduled to depart Guam for the East Coast on September 24, 2006, to arrive Jacksonville, Fla. late October 2006, and from there proceed to drydock.

7. As the two top ranking officers, Capt. Hagner and Chief Mate Kirk are required to remain on board the vessel during the time it is in dry dock. Non-officer merchant marine crewman, such as Plaintiff Kenneth Couture, will work aboard the vessel during its voyage to the U.S. East Coast, then to disembark and return to their respective homes.

8. Trial testimony from Capt. Hagner and Chief Mate Kirk is essential to the case and Defendants' defense. What they have to say can not be reduced to stipulated facts or some other similar manner of presentation to the Court and jury. Their testimony will be essential for the Court and the jury to be fully apprised of important facts. Their testimony is not peripheral to key issues and contested facts. Rather, their testimony goes to the heart of certain issues and factual disputes. Without their testimony, the Court and the jury will be uninformed, the jury


will return a verdict without having heard testimony from key witnesses and, accordingly, Defendants' defense will be highly prejudiced.

9. Defendants request for a new trial date is timely, as the drydock schedule for the JACK LUMMUS was only made known to me during the week of September 11, 2006, and confirmed only days later.

I declare under penalty of perjury that the foregoing is true, correct and complete.

DATED: Hagåtña, Guam, September 21, 2006.

CARLSMITH BALL LLP

  
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DAVID LEDGER  
Attorneys for DEFENDANT  
American Overseas Marine Corporation

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 21st day of September 2006, I will cause to be served, via electronic filing, a true and correct copy of DECLARATION OF DAVID LEDGER IN SUPPORT OF NEW TRIAL DATE upon the following Counsels of record:

William M. Fitzgerald, Esq.  
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and

Bruce Berline, Esq.  
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Garapan, Saipan MP 96950

DATED: September 21, 2006.

  
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DAVID LEDGER